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EXAMINER

BIAGINI, CHRISTOPHER D

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2142

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ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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DETAILED ACTION

Response to Arguments

Applicant's arguments regarding the rejection of claims 1-6 and 8 under 35 USC 101 have been fully considered and are persuasive. Accordingly, the rejection is withdrawn.

Applicant's arguments regarding the rejection of claims 1-6, 8-12, and 15 under 35 USC 103(a) have been fully considered but are not persuasive.

Regarding the argument that the proposed modification changes the principle of operation of Daneels, the Examiner respectfully disagrees. Daneels operates by accepting an incoming request for a URL and redirecting the request to a particular web page based on server load. Note that each web page has its own URL (for example, `http://server/d1/entry.html` and `http://server/d2/entry.html`). See col. 3, lines 10-15. There are numerous ways to accomplish this redirection, such as simply providing the appropriate file (an "internal rewrite"), asking the client to reconnect using the new URL (an "external redirect"), and modifying the request address to access the new URL. Incidentally, the Engelschall reference discusses all of these possibilities. Regardless, all three methods accomplish the same thing for the same reason, and are thus perfectly compatible with one another. Therefore, the proposed modification does not change the principle of operation of Daneels.

Regarding the argument that the motivation for combining the inventions of Daneels and Engelschall is lacking, the Examiner respectfully disagrees. First, as described below, the

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substitution of one redirection method for another would have yielded predictable results to one of ordinary skill in the art at the time of the invention. Second, given the finite number of predictable solutions detailed above, it would have been "obvious to try" each of them. Given that a person of ordinary skill has good reason to pursue the known options within his or her technical grasp, and that the proposed modification would lead to the anticipated success, the combination is not the product of innovation but of ordinary skill and common sense.

Regarding the argument that the combination is based on impermissible hindsight reasoning, the Examiner respectfully disagrees. "Any judgment on obviousness is in a sense necessarily a reconstruction based on hindsight reasoning, but so long as it takes into account only knowledge which was within the level of ordinary skill in the art at the time the claimed invention was made and does not include knowledge gleaned only from applicant's disclosure, such a reconstruction is proper." *In re McLaughlin* 443 F.2d 1392, 1395, 170 USPQ 209, 212 (CCPA 1971). The Examiner respectfully submits that, for the reasons given herein, the rejection takes into account only knowledge which was within the level of ordinary skill in the art at the time of the invention.

Applicant's arguments regarding the dependent claims fail to comply with 37 CFR 1.111(b) because they amount to a general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references. Accordingly, these arguments cannot be held as persuasive.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-6, 8-12, and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Daneels (US Patent No. 6,038,598) in view of Engelschall ("Apache HTTP Server Version 1.3: Module mod_rewrite"), and further in view of Abbott et al. (US Patent No. 6,314,463, hereinafter "Abbott").

Regarding claim 1, Daneels shows a data service system in a data service network system, comprising:

- a content server (comprising the web server in server system 14) that statically stores a plurality of content files for access by external access requests ("web page sets": see col. 2, lines 34-39), wherein a first of said plurality of content files comprises content stored in a full content format (a set containing large amounts of information and video size) and wherein a second of said plurality of content files comprises corresponding content stored in an adapted content format which is less resource-intensive to serve than the full content format (a set containing smaller files such as still images: see col. 3, lines 26-36); and
- an adaptive load control system (the system comprising state setting device 38, state information database 18, and URL-to-file mapping logic 16) coupled to said

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content server to pass the access requests to said content server (see Fig. 1), wherein the adaptive load control system modifies an access attempt to access said second of said plurality of content files instead of said first of said plurality of content files when said content server is in an overload condition such that said content server is maintained at safe load conditions (see col. 2, line 56 to col. 3, line 15 and col. 3, lines 26-36), said adaptive load control system comprising:

- a load monitor (state setting device 38) that monitors the load condition of said content server (see col. 3, lines 19-22 and 26-29).

Daneels further shows that the different content files have different access request addresses (see col. 2, line 58 to col. 3, line 2) and that requests are redirected between those addresses (see col. 3, lines 62-67), but does not explicitly show that the adaptive load control system modifies the access attempt by modifying a URL (Universal Resource Locator) of an access request address. Engelschall shows modifying access request attempts by modifying a URL of an access request address (see Summary on p. 1, discussion of `RewriteRule` directive on p. 11, and discussion of `proxy` flag on p. 13). Because both Daneels and Engelschall teach methods for modifying access request attempts, it would have been obvious to one of ordinary skill in the art to substitute one method for the other in order to achieve the predictable result of transparently redirecting users to a different URL.

Daneels further does not show that the load monitor establishes the load condition of said content server by measuring an amount of time between when the content server receives the external access request and when said content server provides the external access request.

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Abbott shows a load monitor that monitors the load condition of a content server without requiring monitoring of the network, said load monitor establishing the load condition of said content server by measuring an amount of time between when a content server receives the external access request and when said content server provides the external access request (see col. 2, line 54 to col. 3, line 31 and col. 10, line 65 to col. 11, col. 3). It would have been obvious to one of ordinary skill in the art to modify the invention of Mogul with the load monitoring system taught by Abbott in order to measure server response time without the measurement being skewed by varying network performance (see Abbott, col. 1, line 66 to col. 2, line 5).

Regarding claim 2, the combination of Daneels, Engelschall, and Abbott further shows wherein said the adaptive load control system modifies the access request address to access said first of said plurality of content files to access the content in the full content format instead of in the adapted format when said content server is not in the overload condition (comprising a server load of less than 50%: see Daneels, col. 3, lines 6-36).

Regarding claim 3, the combination of Daneels, Engelschall, and Abbott further shows wherein the adaptive load control system further comprises a content adapter (URL to file mapping logic 16) coupled to said load monitor and said content server to modify the access request address (see Engelschall, p. 13) to access the corresponding said second of said plurality of content files to access content in the adapted content format instead of in the full content format when the load monitor indicates that said content server is in the overload condition (see Daneels, col. 3, lines 26 to 36 and 62-67).

Regarding claim 4, the combination of Daneels, Engelschall, and Abbott further shows wherein said adaptive load control system further comprises an adaption controller coupled to said load monitor and said content adapter to cause said content adapter to modify the access request address (see Engelschall, p. 13) to access said second of said plurality of content files to access content in the adapted content format instead of in the full content format when said load monitor indicates that said content server is in the overload condition (see Daneels, col. 3, lines 26 to 36).

Regarding claim 5, the combination of Daneels, Engelschall, and Abbott further shows wherein said adaption controller determines if said content server is in the overload condition by comparing the load information received by said load monitor against a predetermined desired load value of said content server (the predetermined load value comprising a value of 50%: see Daneels, col. 3, lines 10-12 and 62-67).

Regarding claim 6, the combination of Daneels, Engelschall, and Abbott further shows wherein said content adapter modifies the access request address to access said first of said plurality of content files to access content in the full content format instead of in the adapted content format when said load monitor indicates that said content server is not in the overload condition (comprising a server load of less than 50%: see Daneels, col. 3, lines 10-12).

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Regarding claim 8, the combination of Daneels, Engelschall, and Abbott further shows wherein for each of said plurality of content files, said content server includes a service directory that directs the modified access request address to access said first of said plurality of content files and said second of said plurality of content files (comprising the component which stores associates between page sets and state variables: see Daneels, col. 3, lines 10-12 and col. 4, lines 23-34).

Claim 9 is a method claim corresponding to claim 1 and is rejected for the same reasons as given above.

Regarding claim 10, the combination of Daneels, Engelschall, and Abbott further shows modifying the access request address to access said first of said plurality of content files statically stored in said content server instead of said second of said plurality of content files statically stored in said content server format when said content server is determined not to be in the overload condition (comprising a server load of less than 50%: see Daneels, col. 3, lines 6-36).

Regarding claim 11, the combination of Daneels, Engelschall, and Abbott further shows wherein the determining load condition further comprises:

- obtaining the actual load condition of said content server using a load monitor (comprising the state setting device setting a state variable, where server load is a state variable: see Daneels, col. 3, lines 19-22 and col. 4, lines 35-37) ; and

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- comparing the actual load condition with a predetermined desired load condition to determine if said content server is in the overload condition (see Daneels, col. 3, lines 62-67).

Regarding claim 12, the combination of Daneels, Engelschall, and Abbott further shows wherein the modifying the access request address is performed by modifying a URL of the access request address (see Engelschall, p. 1).

Regarding claim 15, the combination of Daneels, Engelschall, and Abbott further shows wherein the determining load condition of said content server is performed within said content server (see Daneels, col. 3, lines 26-29).

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

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however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher Biagini whose telephone number is (571)272-9743. The examiner can normally be reached on weekdays from 8:30 AM to 5:00 PM..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Caldwell can be reached on (571) 272-3868. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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